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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,429	05/05/2004	EAKKAPONG POWPONG		3428

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EXAMINER	
SIM, YONG H	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
08/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/709,429	POWPONG, EAKKAPONG	
	Examiner	Art Unit	
	Yong Sim	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 June 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *26-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *26-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

Applicant has failed to provide a properly signed oath/declaration.

Response to Arguments

1. Applicant's arguments with respect to claims 26 - 33 have been considered but are moot in view of the new ground(s) of rejection.

Re claim 26, Applicant argues that Schena includes a safety optical switch, which is operated by sensing ambient light through a surface of the housing, which is different from being able to turn on and off a massage feature when a person's hand is present.

However, Examiner respectfully argues that claim 26 reciting "a light sensor which senses the presence or absence of a user's hand, said light sensor providing a signal which turns on or off said massage mechanism depending on a presence or absence of said user's hand" in lines 7 – 10 is not different from Schena since the optical sensor detecting a presence of a user's hand as taught by Schena turns a mechanism feature of a mouse on or off depending on the presence of a user's hand in Col. 29, lines 20 – 26.

Therefore, the idea of incorporating the optical switch which turns on or off depending on the presence of a user's hand into the mouse having a massage feature as taught by Muir would read on claim 26. Thereby the argument is moot.

2. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

3. Claims 26 - 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muir (US 6,599,259 B2) in view of Schena et al. (Hereinafter "Schena" US 6,100,874), and further in view of Chen et al. (Hereinafter "Chen" US 2005/0105262A1).

Re claim 26, Muir teaches a computer mouse (30 "input device" Fig. 2) comprising:

a housing (See Fig. 2);

a massage mechanism (See Figs. 3a – 3e; 20 "massaging element") which has at least one button ((12 "on/off switch (button)" Fig. 2) that protrudes out from said housing and a cover (24 "a pliable sheet or film" Fig. 2).

But does not expressly disclose a cover which is attachable to and removable from said housing which, when assembled to said housing, covers said massage mechanism.

However, Chen teaches a computer mouse including an easily exchangeable (Chen: Para 0017) holding sheath/cover fitted onto the mouse, which has protection portion and an auxiliary holding portion that is connected over the upper housing of the mouse to cover the portion of the upper housing (Chen: Para 0020 – 0021. Figs. 1 – 3.).

Therefore, taking the combined teachings of Muir and Chen, as a whole, it would have been obvious to a person having ordinary skill in the art to incorporate the idea of having a cover fitted onto the mouse to cover up a portion of the housing as taught by Chen into the mouse having a massage mechanism as taught by Muir to obtain a mouse with a massage mechanism comprising a sheath/cover fitted onto the mouse to cover the upper housing of the mouse to cover the massage mechanism to provide a degree of decorative variety and ergonomics to the mouse (Chen: Para 0007)

The combined teachings of Muir and Chen teach a computer mouse comprising a housing, a massage mechanism and a cover, which is attachable to and removable from the housing.

But does not expressly teach a light sensor positioned within said housing which senses the presence or absence of a user's hand or said cover covering said light sensor, and light sensor providing a signal which turns on or off said massage mechanism depending on a presence of said user's hand.

However, Schena teaches a force feedback mouse which includes an optical switch/light switch, which is operated by sensing ambient light through a surface of the

housing to turn on or off a mechanism of the mouse depending on the presence of the user's hand (Schena: light sensing system. Col. 29, lines 19 - 26.).

Therefore, taking the combined teachings of Muir, Chen and Schena, as a whole, it would have been obvious to a person having ordinary skill in the art to incorporate the mouse with a light sensing switch as taught by Schena to the mouse as taught by Muir and Chen to obtain a mouse with a massaging element which is turned on or off the activated switch depending on the presence of a user's hand to prevent the user from injury due to unexpected movement of the mouse. (Schena: Col. 29, lines 5 - 10).

Re claim 27, Muir teaches the computer mouse wherein the level of massage provided by said massage mechanism of said mouse is adjustable (Muir: 14 "rheostat," Fig. 2. Col. 4 lines 10 – 13; "rheostat may be configured to control one or more massage stimulus characteristic/level.).

Re claim 28, Muir teaches the computer mouse wherein said massage mechanism includes a plurality of buttons (24 "contact member" Fig. 3d. See Fig. 3d the contact members are in the form of buttons) each of which is spring biased (Col. 3, line 53; "springs (as in Fig. 3d) against a rotatable surface (Col. 3, line 51; "wheels/rotatable surface (as in Fig. 3d)") which includes an inclined portion (See Fig. 3d. The wheel below the buttons comprises "inclined portions" between each button.

Re claim 29, the combined teachings of Muir, Chen and Schena teach the computer mouse with a light sensor, which is located on a convenient surface of a housing (Schena: Col. 29, lines 20 – 22).

But does not expressly disclose a sensor that is positioned in a center of said massage mechanism.

However, the courts have been held that a mere change of location of parts is generally recognized as being within the level of ordinary skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Therefore, it would have been obvious to a person having ordinary skill in the art to incorporate the idea of having a light sensor in a center of said massage mechanism to accurately detect the presence of a user's hand.

Re claim 30, the combined teachings of Muir, Chen and Schena teach the computer mouse of claim 26, wherein said cover has at least a portion which projects under said housing (Schena: See Fig. 3. The cover has a rim which projects under the housing.).

Re claim 31, the combined teachings of Muir, Chen and Schena teach the computer mouse of claim 26, wherein said housing has a contour top and wherein said cover has a shape which matches said contour top (Schena: See Fig. 2. The sheath/cover matches the contour of the mouse.).

4. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muir, Chen and Schena as applied to claims 26 - 31 above, and further in view of Krolik (US 3,967,617).

Re claim 32, the combined teachings of Muir, Chen and Schena teach the computer mouse of claim 28, wherein said rotatable surface is driven by an electric motor (Muir: 22 "electric motor" Fig. 3d).

But does not expressly teach a double pole, double throw switch for activation by a user to reverse a direction of the electric motor.

However, Krolik teaches a massaging device comprising a reversing switch such as a double pole double throw switch to change the direction of massaging force (Krolik: Col. 12, lines 17 – 20).

Therefore, taking the combined teachings of Muir, Chen, Schena and Krolik, as a whole, it would have been obvious to a person having ordinary skill in the art to incorporate the idea of using a double pole double throw switch as taught by Krolik into the mouse of Muir, Chen and Schena to obtain a mouse with a massage mechanism comprising a double pole double throw switch to vary the direction of massaging force to give the user more thorough and complete coverage of the massaging surface.

5. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muir, Chen, Schena and Krolik as applied to claim 32 above, and further in view Sugimoto et al. (Hereinafter "Sugimoto" US 4,495,560).

Re claim 33, the combined teachings of Muir, Chen, Schena and Krolik teach the computer mouse of claim 32.

But does not expressly disclose a Darlington transistor as a current multiplier to multiply the current needed to power said electric motor of said massage mechanism.

However, Sugimoto teaches a shoulder patting/massaging machine wherein an amplifying means including transistors in the Darlington form for amplifying the controlled electric signal from the control means into an electric current signal sufficient to drive a movable core or motor (Sugimoto: Col. 36, lines 34 – 45).

Therefore, taking the combined teachings of Muir, Chen, Schena, Krolik and Sugimoto, as a whole, it would have been obvious to a person having ordinary skill in the art to incorporate the idea of using a Darlington form transistors for providing sufficiently amplified/multiplied current to a motor as taught by Sugimoto into the mouse as taught by Muir, Chen, Schena and Krolik to obtain a mouse with a massage mechanism wherein the motor for the massage mechanism comprises a Darlington form transistors to provide sufficiently amplified current to the motor to provide a user with a satisfactory massaging sensation.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Sim whose telephone number is (571) 270-1189. The examiner can normally be reached on Monday - Friday (Alternate Fridays off) 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

8/14/2007
YHS

AMR A. AWAD
SUPERVISORY PATENT EXAMINER